

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CRS, LLC )  
              )  
Plaintiff, )  
              )  
v.           ) C.A. No. 08-127-GMS  
              )  
TURNER BROADCASTING SYSTEM, )  
INC.          )  
              )  
Defendant. )

**DECLARATION OF INGE LARISH IN SUPPORT OF DEFENDANT  
TURNER BROADCASTING SYSTEM, INC.'S MOTION TO TRANSFER  
TO THE WESTERN DISTRICT OF WASHINGTON**

I, Inge Larish, the undersigned, declare:

1. I am an attorney with Klarquist Sparkman, LLP, counsel for Turner Broadcasting System, Inc., in the above-captioned matter. I am admitted to practice before this court and am a member of the Washington State Bar. I have personal knowledge of the matters stated herein unless indicated otherwise, and I declare as follows:
2. Attached hereto as Ex. A is a true copy of Network Commerce Answers to

**DECLARATION OF INGE A. LARISH IN SUPPORT OF MOTION TO TRANSFER  
CASE - 1  
C.A. No. 08-127-GMS**

Microsoft's First Set of Interrogatories Response to Interrogatory No. 2, as served in *Network Commerce, Inc. v. Microsoft Corp.*, W.D.Wa. 2:01-cv-01991.

3. Attached hereto as Ex. B is a true and accurate copy of Network Commerce Initial Disclosures as filed with the court in *Network Commerce, Inc. v. Microsoft Corp.*, W.D.Wa. 2:01-cv-01991.

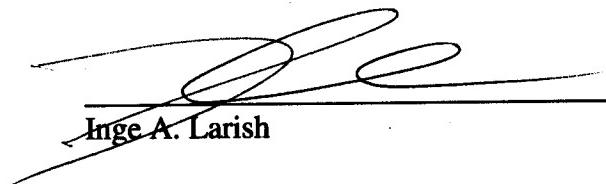
4. Defendant's counsel has such documents as produced from the Network Commerce in the litigation with Microsoft and archived as permitted by the protective order in *Network Commerce v. Microsoft Corp.*. Defendant's counsel has already written to Plaintiff's counsel to ascertain whether Plaintiff and its counsel have maintained Network Commerce documents and to request permission pursuant to the protective order entered in *Network Commerce v. Microsoft Corp.* to use the documents in the current litigation. At this time, Defendant's counsel has not received a response to this request.

5. According to the Judicial Caseload Profile, District Court Statistics, published by the Administrative Office of the United States Courts, for the period ending December 2007, the time from filing to disposition between the two courts is 27 months in this Court and 18 months in the Western District of Washington. Attached hereto as Ex. C is the U.S. District Court Judicial Caseload Profiles for Western District of Washington and the District of Delaware.

I swear under penalty of perjury, under the laws of the United States, that the foregoing statements are true and accurate to the best of my knowledge.

DECLARATION OF INGE A. LARISH IN SUPPORT OF MOTION TO TRANSFER  
CASE - 2  
C.A. No. 08-127-GMS

Executed this 8<sup>th</sup> day of May, 2008 at Seattle, Washington.



A handwritten signature in black ink, appearing to read "Inge A. Larish". The signature is written over a horizontal line and includes three distinct loops above the name.

**DECLARATION OF INGE A. LARISH IN SUPPORT OF MOTION TO TRANSFER  
CASE - 3  
C.A. No. 08-127-GMS**

**CERTIFICATE OF SERVICE**

I, Karen E. Keller, Esquire, hereby certify that on May 9, 2008, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

Michael G. Busenkell, Esquire  
Eckert Seamans Cherin & Mellott LLC  
300 Delaware Avenue, Suite 1210  
Wilmington, DE 19801

I further certify that on May 9, 2008, I caused a true and correct copy of the foregoing document to be served by e-mail and hand delivery on the above-listed counsel of record and on the following non-registered participants in the manner indicated:

**BY E-MAIL**

Robert Rohde, Esquire, Esquire [brohde@rohdelaw.com]  
Rohde & Van Kempen PLLC  
1001 Fourth Avenue, Suite 4050  
Seattle, WA 98154-1000

YOUNG CONAWAY STARGATT  
& TAYLOR, LLP

*/s/Karen E. Keller*

---

Karen E. Keller (No. 4489) [kkeller@ycst.com]  
The Brandywine Building  
1000 West Street, 17th Floor  
Wilmington, Delaware 19899  
(302) 571-6600

# EXHIBIT A

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THE HONORABLE MARSHA J. PECHMAN

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NETWORK COMMERCE, INC., a Washington  
Corporation,

Plaintiff,

v.

MICROSOFT CORPORATION, a Washington  
Corporation,

Defendant.

NO. C01-1991P

PLAINTIFF NETWORK COMMERCE'S  
ANSWERS TO DEFENDANT  
MICROSOFT CORPORATION'S FIRST  
SET OF INTERROGATORIES

Plaintiff Network Commerce, Inc. ("NCI") submits the following responses to  
defendant Microsoft Corporation's ("Microsoft") First Set of Interrogatories pursuant to and  
in accordance with Rules 26 and 33 of the Federal Rules of Civil Procedure.

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PLAINTIFF'S ANSWERS TO INTERROGATORIES  
(NO. C01-1991P) - 1  
[29833-0139/SL020720.337]

PERKINS COIE LLP  
1201 Third Avenue, Suite 4800  
Seattle, Washington 98101-3099  
(206) 583-8888

1 this interrogatory from the '124 patent—which is publicly available and/or already in  
2 Microsoft's possession—and the burden of doing so is substantially the same for Microsoft as  
3 it would be for NCI. Without waiving these objections, NCI refers Microsoft to the  
4 specification of the '124 patent, which speaks for itself. The specification describes a  
5 preferred embodiment of the invention, and has a written description that the patent examiner  
6 found was sufficient to support the claim language.  
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12 **INTERROGATORY NO. 2**

13 Separately, for each claim of the '124 Patent, set forth a complete chronological  
14 description, in accordance with the Instructions (see, e.g., Instruction 8 above), of the  
15 development of the claimed subject matter from conception to actual reduction to practice.  
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18 **ANSWER TO INTERROGATORY NO. 2**

19 NCI objects to this interrogatory as overly broad and unduly burdensome, especially  
20 to the extent it seeks an answer "in accordance with the Instructions" (see General Objection  
21 No. 8). NCI also objects on the grounds that the interrogatory is not reasonably calculated to  
22 lead to the discovery of admissible evidence to the extent it seeks the dates of conception and  
23 reduction to practice of the claimed invention. The dates of conception and reduction to  
24 practice are not relevant to any claim or defense asserted in this action, and would become  
25 relevant only if and when there was an issue concerning prior inventorship. Without waiving  
26 these and its general objections, NCI responds that the general concept for the invention  
27 claimed in the '124 patent arose at least as early as early or mid-1996, in connection with the  
28 development of certain technology, including a website editing product called "Internet  
29 Guru" and licensing technology. As part of that project, a server was developed which  
30 permitted the secure transfer and delivery of digital content over the Internet. By mid-1996,  
31 a licensing module that permitted the licensing of digital content over the Internet was  
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1 incorporated into the server, and was successfully beta tested soon thereafter. By at least  
2 January 1997, the system was able to conduct electronic commerce as disclosed in the '124  
3 patent and was successfully beta tested soon thereafter. The persons most knowledgeable  
4 concerning the conception and reduction to practice of the claimed invention are the named  
5 inventors—Ganapathy Krishnan, John Guthrie, and Scott Oyler. Documents that relate to  
6 the conception and reduction to practice of the claimed invention, to the extent such  
7 documents exist, will be produced in response to Microsoft's First Set of Requests for  
8 Production of Documents.

16 **INTERROGATORY NO. 3**

18 For each claim of the '124 Patent, describe, in accordance with the Instructions (see,  
19 e.g., Instruction 8 above), the circumstances leading to and surrounding the first public  
20 disclosure, or first sale or offer for sale, of the claimed subject matter, and all disclosures of  
21 the claimed subject matter, private or otherwise, to any person other than the inventor or  
22 inventors of that subject matter which occurred prior to July 15, 1997.

28 **ANSWER TO INTERROGATORY NO. 3**

30 NCI objects to this interrogatory as vague, overly broad, and unduly burdensome,  
31 especially to the extent it seeks an answer "in accordance with the Instructions" (see General  
32 Objection No. 8). NCI also objects on the grounds that this interrogatory is not reasonably  
33 calculated to lead to the discovery of admissible evidence to the extent it seeks information  
34 concerning disclosures occurring after the latest possible critical date of July 15, 1996 or non-  
35 public disclosures. Without waiving these or its general objections, NCI responds that it is  
36 unaware of any public disclosures, sales, or offers for sale of the claimed invention prior to  
37 July 15, 1996. NCI did have discussions with Kinetics, Inc. in approximately June or July of  
38 1996 concerning the possible investment in and/or acquisition of the company by Kinetics. In  
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**INTERROGATORY NO. 13**

For every product or service identified in your answer to Interrogatory No. 12, state:

- (a) the dates of first making, use, public disclosure, sale, offer for sale, or for license;
- (b) whether such making, marketing, use, sale, offer for sale or for license is presently continuing, and if not, give the dates of termination thereof;
- (c) whether the division, subsidiary, or business unit of Network Commerce that performed such making, marketing, use, sale, offer for sale or for license was sold, and if so, to whom.

**ANSWER TO INTERROGATORY NO. 13**

See Answer to Interrogatory No. 12.

DATED this 19<sup>th</sup> day of April 2002.

PERKINS COIE LLP

By William D. Fisher  
Ramsey M. Al-Salam, WSBA #18822  
William D. Fisher, WSBA #27475  
Attorneys for Plaintiff Network Commerce, Inc.

# EXHIBIT B

1 THE HONORABLE MARSHA J. PECHMAN  
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10 UNITED STATES DISTRICT COURT  
11 WESTERN DISTRICT OF WASHINGTON  
12 AT SEATTLE

13  
14 NETWORK COMMERCE, INC.,  
15 a Washington corporation,

16 Plaintiff,

17 v.  
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19 MICROSOFT CORPORATION,  
20 a Washington corporation,

21 Defendant.

22 NO. C01-1991P

23 PLAINTIFF NETWORK COMMERCE'S  
24 INITIAL DISCLOSURE STATEMENT

25  
26 Plaintiff Network Commerce, Inc. ("Network Commerce") submits the following  
27 initial disclosure statement in accord with Fed. R. Civ. P. 26(a)(1). This statement is  
28 submitted without benefit of defendant Microsoft Corporation's ("Microsoft") initial  
29 disclosure statement or discovery. Accordingly, Network Commerce reserves the right to  
30 disclose additional information regarding any of its claims or defenses, or to otherwise  
31 supplement these disclosures pursuant to Fed. R. Civ. P. 26(e), following Microsoft's filing of  
32 an initial disclosure statement and/or discovery in this action.

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PLAINTIFF'S INITIAL DISCLOSURE STATEMENT  
(NO. C01-1991P) - 1  
[29833-0139/SL020620.039]

PERKINS COIE LLP  
1201 Third Avenue, Suite 4800  
Seattle, Washington 98101-3099  
(206) 583-8888

**INDIVIDUALS WITH DISCOVERABLE INFORMATION**

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3. **Ganapathy Krishnan**  
4 14019 NE 85 Court  
5 Redmond, WA 98052  
6 425-497-0289  
7

8  
9 Mr. Krishnan is one of the named inventors in the patent-at-issue, U.S. Patent No.  
10 6,073,124 (the "124 patent"), and has knowledge concerning the invention disclosed in the  
11 '124 patent, including its conception and reduction to practice.  
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15 2. **Scott Oyler**  
16 Developer  
17 Network Commerce, Inc.  
18 411 First Avenue South  
19 Suite 200 N  
20 Seattle, WA 98104  
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23 Mr. Oyler is one of the named inventors in the '124 patent, and has knowledge  
24 concerning the invention disclosed in the '124 patent, including its conception and reduction  
25 to practice.  
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30 3. **John L. Guthrie**  
31 11215 NE 128<sup>th</sup> Street, #L203  
32 Kirkland, WA 98034  
33 (425) 814-6934  
34  
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36 Mr. Guthrie is one of the named inventors in the '124 patent, and has knowledge  
37 concerning the invention disclosed in the '124 patent, including its conception and reduction  
38 to practice, and Microsoft's infringement of the '124 patent. Mr. Guthrie also has knowledge  
39 concerning Network Commerce's prior business activities, which may be relevant to the  
40 claims made by Microsoft for infringement of United States Patent Nos. 5,794,006 (the "006  
41 patent"), 5,822,526 (the "526 patent"), and 5,999,914 (the "914 patent").  
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4. **Dwayne Walker**  
Chairman and CEO  
Network Commerce, Inc.  
411 First Avenue South  
Suite 200 N  
Seattle, WA 98104

Mr. Walker has knowledge of Network Commerce's business and what it would have required for a royalty for licensing the '124 patent if the parties had negotiated a license at the time the infringement began. Mr. Walker also has knowledge of Network Commerce's prior and current business activities, which may be relevant to the claims made by Microsoft for infringement of the '006 patent, the '526 patent, and the '914 patent.

5. Presently unidentified current and/or former employees of Microsoft will have knowledge concerning Microsoft's infringement of the '124 patent.

**RELEVANT DOCUMENTS IN  
NETWORK COMMERCE'S POSSESSION OR CONTROL**

1. The '124 Patent Documents. The '124 patent has been provided to Microsoft. The '124 patent's file history is publicly available.

2. Technical Documents Relating to the '124 Patent. These documents are located at Network Commerce's headquarters in Seattle, Washington.

3. Documents Relating to Microsoft's Infringement. These documents are located at Network Commerce's headquarters in Seattle, Washington.

4. The '006 Patent, the '526 Patent, and the '914 Patent Documents. These documents are either in Microsoft's possession or publicly available.

5. Documents Relating to Network Commerce's Alleged Infringement of the '006 Patent, the '526 Patent, and the '914 Patent. These documents are located at Network Commerce's headquarters in Seattle, Washington. Network Commerce cannot determine the scope of such documents at this time.

## **COMPUTATION OF DAMAGES**

Network Commerce has not yet prepared any computation of damages. Network Commerce will base its computation of damages for its claim, in part, on sales and other information that Network Commerce expects Microsoft to provide during discovery.

## **INSURANCE AGREEMENT**

Not applicable.

DATED this 4<sup>th</sup> day of March 2002.

**PERKINS COIE LLP**

By William D. Fisher  
Ramsey M. Al-Salam, WSBA #18822  
William D. Fisher, WSBA #27475

Attorneys for Plaintiff Network Commerce, Inc.

**PLAINTIFF'S INITIAL DISCLOSURE STATEMENT  
(NO. C01-1991P) - 4**  
[29833-0139/SL020620.0391]

**PERKINS COIE LLP**  
1201 Third Avenue, Suite 4800  
Seattle, Washington 98101-3099  
(206) 583-8888

# EXHIBIT C

# U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

		12-MONTH PERIOD ENDING SEPTEMBER 30								
DELAWARE		2007	2006	2005	2004	2003	2002	Numerical Standing		
OVERALL CASELOAD STATISTICS	Filings*	1,065	1,077	1,190	1,797	1,362	2,028	U.S.	Circuit	
	Terminations	975	1,419	1,448	1,516	1,507	1,478			
	Pending	1,511	1,501	1,853	2,085	1,836	1,999			
	% Change in Total Filings	Over Last Year		-1.1				50	4	
		Over Earlier Years		-10.5	-40.7	-21.8	-47.5	90	6	
Number of Judgeships		4	4	4	4	4	4			
Vacant Judgeship Months**		9.5	.0	.0	.0	1.9	3.1			
ACTIONS PER JUDGESHIP	FILINGS	Total	267	270	298	449	340	507	80	5
		Civil	218	233	264	414	306	462	72	5
		Criminal Felony	38	30	28	29	25	38	81	5
		Supervised Release Hearings**	11	7	6	6	9	7	82	3
	Pending Cases		378	375	463	521	459	500	42	5
	Weighted Filings**		379	367	422	534	424	516	61	3
	Terminations		244	355	362	379	377	370	83	5
	Trials Completed		21	15	20	19	23	18	43	3
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	8.5	9.3	9.4	9.1	8.3	9.8	43	2
		Civil**	12.5	16.8	10.9	14.0	11.2	8.2	88	5
	From Filing to Trial** (Civil Only)		27.0	26.0	23.5	26.0	24.0	22.5	54	3
OTHER	Civil Cases Over 3 Years Old**	Number	108	142	156	65	66	99		
		Percentage	8.2	10.6	9.1	3.4	3.9	5.4	77	5
	Average Number of Felony Defendants Filed Per Case			1.1	1.2	1.2	1.2	1.3	1.1	
	Jurors	Avg. Present for Jury Selection	41.56	39.60	39.82	38.50	34.98	33.84		
		Percent Not Selected or Challenged	31.7	24.1	22.8	20.9	24.0	24.4		

## 2007 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE

Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	870	28	4	229	9	3	32	68	39	176	103	14	165
Criminal*	150	1	26	25	46	20	2	17	5	2	-	1	5

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.  
 \*\* See ["Explanation of Selected Terms."](#)

**U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE**

		12-MONTH PERIOD ENDING SEPTEMBER 30							
WASHINGTON WESTERN		2007	2006	2005	2004	2003	2002	Numerical Standing	
OVERALL CASELOAD STATISTICS	Filings*	3,573	3,471	4,167	4,858	5,038	4,103	U.S.	Circuit
	Terminations	3,813	4,101	4,584	4,337	3,491	4,041		
	Pending	2,671	3,280	4,303	4,608	3,890	2,373		
	% Change in Total Filings	Over Last Year		2.9				34	8
		Over Earlier Years		-14.3	-26.5	-29.1	-12.9	62	14
Number of Judgeships		7	7	7	7	7	7		
Vacant Judgeship Months**		20.9	14.1	6.7	14.0	2.6	12.0		
ACTIONS PER JUDGESHIP	FILINGS	Total	511	496	595	694	720	586	23
		Civil	411	396	487	582	616	498	15
		Criminal Felony	72	69	74	78	68	56	9
		Supervised Release Hearings**	28	31	34	34	36	32	31
	Pending Cases		382	469	615	658	556	339	41
	Weighted Filings**		559	572	626	611	621	617	12
	Terminations		545	586	655	620	499	577	16
	Trials Completed		22	19	16	13	10	12	38
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	8.0	7.9	7.3	6.3	6.2	5.8	39
		Civil**	8.1	9.1	9.6	7.2	6.4	5.8	31
	From Filing to Trial** (Civil Only)		18.0	19.0	19.4	16.4	16.7	18.0	14
OTHER	Civil Cases Over 3 Years Old**	Number	36	310	259	32	23	36	
		Percentage	1.7	11.2	6.9	.8	.7	1.8	11
	Average Number of Felony Defendants Filed Per Case			1.5	1.7	1.6	1.7	1.6	1.6
	Jurors	Avg. Present for Jury Selection	44.77	45.30	36.80	42.94	38.85	36.51	
		Percent Not Selected or Challenged	34.0	39.9	25.5	42.2	29.1	32.8	

**2007 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE**

Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	2874	284	197	579	46	18	241	338	251	140	326	22	432
Criminal*	489	19	134	92	60	70	23	28	3	20	9	18	13

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.  
 \*\* See ["Explanation of Selected Terms."](#)